Ontario

OFFICE OF THE WORKER ADVISER

ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2004 TO MARCH 31, 2005

Office of the Worker Adviser
1300 – 123 Edward Street
Toronto, Ontario
M5G 1E2

OFFICE OF THE WORKER ADVISER

2004-05 ANNUAL REPORT

TABLE OF CONTENTS

INTRODUCTION AND BACKGROUND **1**

MANDATE AND SERVICES **1**

REPORT FROM THE DIRECTOR **2**

AN OVERVIEW OF OWA'S SERVICE DELIVERY **3**

ACHIEVEMENTS IN KEY ACTIVITIES **3**

(1) ADVISORY SERVICES – SUPPORTING INJURED WORKER SELF-RELIANCE 3

Analysis Of Incoming Workload 4

Case Selection Policy's Affect On Incoming OWA Workload 5

(2) REPRESENTATION SERVICES 7

OWA's Basic Case Management Approach 7

Waiting List For Appeal Level Representation Services 7

Case Closure Rate 8

The Appeals System And OWA's Role Within It 9

A. OWA's overall role in the Appeals System 9

B. Early & Alternative Dispute Resolution Initiatives 9

C. Central Client Services Unit 10

(3) COMMUNITY PARTNERSHIPS AND EDUCATIONAL SERVICES 12

Providing OWA Services To Areas With No Permanent OWA Office 13

Highlights of OWA Educational Sessions And Community Partnerships 13

OTHER KEY ACTIVITIES IN 2004-05 ..... **14**

(1) STRENGTHENING SYSTEM PARTNERSHIPS 14

(2) OWA TRANSFER PAYMENT PROGRAM 16

(3) OWA STAFF LEARNING INITIATIVES 17

(4) TECHNOLOGY AND INFORMATION MANAGEMENT IN SUPPORT OF CLIENT SERVICES 18

APPENDICES

PERFORMANCE MEASURES ..... IA

PERFORMANCE ACHIEVEMENTS ..... IB

FINANCIAL REPORT II

ORGANIZATIONAL CHART III

OWA OFFICE LOCATIONS IV

INTRODUCTION AND BACKGROUND

The Office of the Worker Adviser ("OWA") was established in 1985. The OWA is an operational service agency of the Ministry of Labour (the "Ministry").

The OWA's mandate, established by s. 176(1) of the *Workplace Safety and Insurance Act* (the "Act"), is "to educate, advise and represent workers who are not members of a trade union and their survivors".

The memorandum of understanding between the OWA and the Minister of Labour (the "Minister") provides that the OWA will report to the Minister annually. This report covers the fiscal year ending March 31, 2005

MANDATE AND SERVICES

The mandate of the OWA consists of three key activities:

To **advise** non-unionized injured workers and their survivors of their rights and responsibilities under the *Act* in a manner that maximizes their self-reliance within the workplace safety and insurance system;

To **represent** non-unionized injured workers and their survivors at the Workplace Safety and Insurance Board (the "Board"), the Workplace Safety and Insurance Appeals Tribunal (the "Tribunal"), and in other related proceedings, with a focus on early and safe return to work, early resolution of disputes without recourse to formal hearings, diversion of cases from the appeals system and alternative dispute resolution at the appeals level; and

To **educate** and establish partnerships with injured workers and others in the community who work with injured workers, to promote and support individual and community self-reliance in workplace insurance and return to work.

In all of its work, the OWA puts a high priority on participating in and promoting improvements to the functioning of the workplace safety and insurance system.

REPORT FROM THE DIRECTOR

During 2004-05, OWA continued to focus on improving service to the vulnerable non-unionized injured workers and survivors who need our help the most. Significant progress was made on a number of fronts.

OWA's most important service is representation in appeals before the Board and Tribunal. Our clients have some of the most complex cases in the system – including large numbers of occupational disease cases – and need expert help from OWA. During 2004-05, for example, we continued our involvement with the pool of over 800 cases from the Holmes Foundry in Sarnia. We also continued to experience a high rate of incoming demand for service. The key measure of whether we have found the balance between resources and service need is our backlog for representation service. I am very pleased to report that progress continued on OWA's backlog reduction strategy, resulting in a reduction of 31% from 2003-04 levels. Overall, as of March 31, 2005, our backlog was down to 231 from a level of over 700 in October 2001. Further progress is anticipated in 2005-06.

We implemented important improvements to our service delivery model in 2004-05, to strengthen our capacity to provide immediate advisory services and timely representation services to injured workers who need our help. I want to thank the many OWA staff who provided invaluable input on these changes to our services.

At the same time, OWA made significant progress on improving our services to particularly vulnerable populations of injured workers and survivors. I am very proud of our contribution to launching an innovative partnership with the Ministry, Board and Threads of Life organization, to provide immediate, seamless and supportive service to survivors of workers killed on the job. This partnership was piloted in the Hamilton region during 2004-05 and will be extended to the whole Western Region in 2005-06. OWA was also very pleased to participate in training and support to the first group of Threads of Life Volunteer Family Guides.

OWA strongly supports efforts to improve consensus between workers and employers, and to work with our system partners to improve the effectiveness of the workplace insurance system for both stakeholder communities. Our future success and the success of the system as a whole, will rely heavily on partnerships. In this regard, 2004-05 was a year of major progress. This included joint development of adjudication and medical best practices with the worker community and the Board, and a very promising initiative with the Board and the Canada Pension Plan's disability program, to improve the interface between these two important programs. OWA also made an important contribution to the Board's consultation on improving occupational disease policies and adjudication.

I wish to thank OWA staff for another year of hard work, creativity and achievement, and to express my appreciation for the support of our many partners in dispute resolution, return to work and prevention.

Alec Farquhar
Director, OWA

AN OVERVIEW OF OWA'S SERVICE DELIVERY

Service delivery model changes were implemented in early 2004-05, to focus resources on initial advice and on representation services. Under this model, Program Assistants provide basic information/advice to all injured workers who contact OWA; Intake Counsellors focus on advice in pressing cases and assistance in less complex cases; and Worker Advisers provide representation service in the more complex cases. OWA's website was also enhanced, to provide more self-help information to injured workers.

Along with changes to its service delivery model and increased use of technology, the OWA continued to use its "case selection" process to focus resources on the appeal cases most needing OWA representation. As a result, OWA continued to make progress on reducing its representation backlogs from over 337 in 2003-04 to 231 as of March 31, 2005.

To improve access to OWA services by its disabled clients, many of whom have trouble travelling long distances, regular staff visits were conducted to a number of cities where OWA does not have an office. In 2004-05, OWA staff visited Bancroft, Barry's Bay, Belleville, Brockville, Hearst, Kapuskasing, Kingston, Napanee, New Liskeard, North Bay, Pembroke, Perth, Peterborough, Prescott and as well as the visits to Sarnia to deal with occupational disease case clusters.

Technology is a vital contributor to OWA's service delivery model. During 2003-04 and 2004-05, significant resources were devoted to upgrading the existing legacy Case Management System (CMS) to a Windows-based environment. This is scheduled for rollout in 2005-06.

ACHIEVEMENTS IN KEY ACTIVITIES

(1) ADVISORY SERVICES – SUPPORTING INJURED WORKER SELF-RELIANCE

In many situations, with appropriate information or advice, injured workers are able to handle their workplace insurance issues on their own. Self-reliance is particularly important for the many injured workers who will be dealing with the Board over long periods of time. If OWA can help some injured workers become more self-reliant, scarce resources can be focused on the provision of representation services to clients whose cases are more complex. For some injured workers, the information on the OWA's website will be sufficient. In other situations, these workers will need more customized advisory services from OWA staff. Overall, to encourage self-reliance, workers or survivors who contact the OWA are initially provided with advisory services.

The main components of advisory services are summary advice and summary assistance. Summary advice consists of basic information and advice that the client can then use in dealing directly with the Board or the employer. Summary assistance is more active help that does not include representation – for example, helping the client draft his/her own letters to the Board, or reviewing witness statements or medical reports gathered by the client.

Many non-unionized injured workers are vulnerable due to a combination of low education levels, lack of English language skills and the stresses of unemployment and disability. It is thus important

that advisory services be targeted at clients who are truly capable of self-reliance and that representation services are available to those who need them.

In 2004-05, OWA assisted 81% of incoming injured workers through advisory services, and 19% with representation. This represented a decline from the 2002-03 level of 32% assisted by some form of intervention. Three key factors contributed to this shift. First was the growth in new requests for service. This has meant a greater need to focus representation resources on the appeals most needing OWA involvement. Second, the overall complexity of OWA's caseload has continued to increase, reducing the number of representation cases, which OWA can handle. Finally, OWA has focused its representation services at the stage where the injured worker's Board file can be reviewed, rather than the earlier practice of intervening in some cases without the file. Experience had shown that intervention without the file had limited success

The number of new requests for service is a vital determinant of demand for OWA's services. OWA has experienced recent increases in new requests for service, up 23% from 2003-04 to 2004-05. One key measure of OWA's overall workload and effectiveness is the number of different clients served during the fiscal year. In 2004-05, OWA assisted 14,841 different injured workers – down from 2003-04 levels. However, analysis of these numbers indicates an increase in multiple requests for advisory service. This may mean that some injured workers may be facing challenges in self-reliance, thus returning to OWA on more than one occasion.

The OWA supplements its advisory services with publications that are written specifically for injured workers. These information sheets are provided in paper form (in French and English) and also form an important part of the OWA website. The website also provides clients with direct e-mail access to the OWA. In August 2004, OWA launched its new website, including, revised information sheets. Multi-lingual information materials are planned for 2005-06.

Analysis Of Incoming Workload

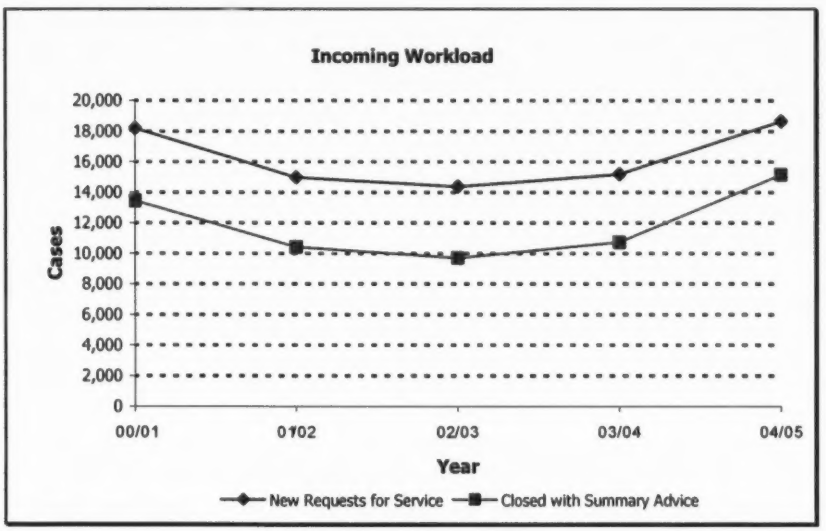

Figure 1: Incoming Workload

Incoming Workload	00-01	01-02	02-03	03-04	04-05	% Change 03-04 to 04-05
New Requests for Service	18,186	14,961	14,363	15,182	18,641	23%
Closed with Summary Advice	13,449	10,399	9,699	10,724	15,144	41%
% Closed with Summary Advice	74%	69%	68%	71%	81%	10%
% Active Intervention Provided Beyond SA	26%	31%	32%	29%	19%	- 10%
Number of Individual Clients Helped	10,509	11,622*	11,603	15,570**	14,841**	- 5%

Table 1: Incoming Workload

* Under the current service model, many clients receive more active support without passing through the summary advice stage. After 2001-02, this measure included different clients receiving summary assistance and various types of intervention.

** In 2003-04, OWA introduced a more comprehensive measure of the number of clients served, which added a few more service categories and is not entirely comparable with the statistic used earlier.

Case Selection Policy's Affect On Incoming OWA Workload

OWA's case selection policy was developed a decade ago to help OWA deal with the increasing demand for services. The objective of case selection is to focus resources on the cases most needing OWA services.

There were two components to the policy: selection by merit and by issue.

Through "merit review," the evidence and legal arguments available to substantiate an appeal are evaluated. Cases are not taken to appeal unless there is a significant likelihood of success. At the same time, the threshold for issue based selection has increased from the former requirement that at least four weeks' benefits be at stake to the current level of eight weeks.

i. Issue-Based Selection:

The purpose of issue-based case selection is to identify issues which are relatively routine, and which injured workers could reasonably be expected to handle on their own. In these selected out cases, only advisory services are provided.

Table 1(a) below, shows that both the number and proportion of cases selected out by issue has significantly decreased falling to only 0.2% by 2004-05. This statistic reflects that as changes in case selection by issue become more widely known in the client community, clients will "self-select", and not approach OWA for service in selected out issues.

Cases Selected Out	00-01	01-02	02-03	03-04	04-05	% Change 03-04 to 04-05
By Issue % of total incoming cases	260 1.4%	306 2.1%	207 1.4%	229 1.5%	30 .2%	-86.9%
By Merit % of total incoming cases	533 2.9%	699 4.9%	760 5.3%	851 6%	1,331 7%	56.4%
Total % of total incoming cases	793 4.4%	1,005 6.7%	967 6.7%	1,080 7.1%	1,361 7.3%	26.0%
Total Incoming Cases	18,186	14,961	14,363	15,182	18,641	22.8%

Table 1(a): Case Selected Out where only advisory services provided

ii. Merit-Based Selection:

For many years, OWA has taken a firm position that it must focus its resources on cases where there is some significant chance of success, and not proceed to appeal on non-meritorious cases. Thus, all cases are reviewed for merit before they are approved for appeal representation. This is a weighty decision for any client service organization to make.

In all cases considered for merit, a Worker Adviser reviews the worker's Board file, any new evidence, the submissions made by Intake Counsellors and the most recent reasons for denial received from the Board. All reasonable avenues for finding additional evidence must also be considered. If the Worker Adviser concludes that there is no significant chance of success, the reasons are then explained to the injured worker and confirmed in writing. If the injured worker can provide additional information, which could support an appeal with a significant chance of success, the OWA will revisit its merit review decision.

It should be appreciated that there can never be a completely satisfactory approach to what is by its nature a somewhat subjective process. Reasonable people can differ on the merits of an appeal. On the other hand, devoting resources to non-meritorious cases cannot be justified either. OWA staff are encouraged to ensure that they were not unreasonably stringent in their assessments. Cases do not need to be "guaranteed winners" to be approved for appeal level representation, but at the same time there must be some evidence or argument which gives the appeal a significant chance of success.

In 2004-05, the OWA selected out 1331 cases, or approximately 7% of its incoming cases (see Table 1(a)), in accordance with the merit review criteria. This was an increase from 2003-04, and in fact was also the highest proportion of cases selected out in the past six years. Although this highlights the OWA's ongoing commitment to divert unmeritorious cases from the appeals system, it also raises the concern that the approach has become too stringent.

(2) REPRESENTATION SERVICES

OWA's Basic Case Management Approach

As described above, OWA's first objective is to support the injured worker in resolving the dispute directly with the employer or Board. A Program Assistant or Intake Counsellor provides this support to the worker through summary advice or assistance. In cases which can be quickly resolved without access to the Board file, the Board has facilitated early intervention by OWA staff. This arrangement continued in 2004-05.

There remains a minority of cases that cannot be resolved through self-reliance or by early intervention. In these situations, Worker Advisers provide representation services at all levels of adjudication and appeal within the workplace insurance system. When a satisfactory resolution of the case has been obtained, or when it is determined that there is no merit in continuing, or when the worker's appeal rights have been exhausted, the representation file is closed.

Waiting List For Appeal Level Representation Services

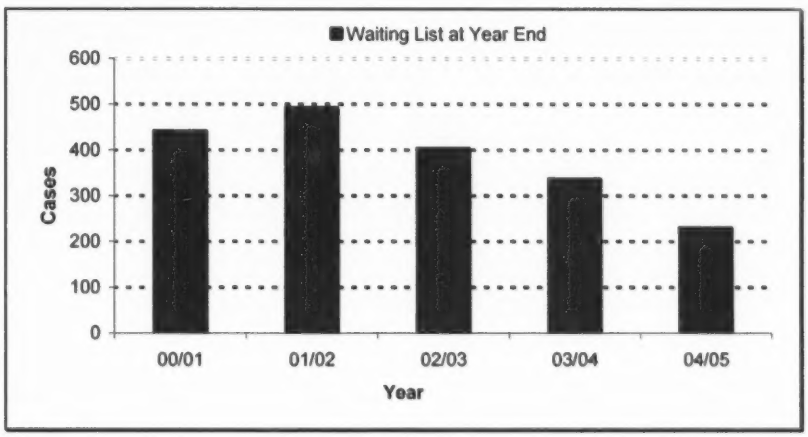

Figure 2: Waiting List at Year End

OWA Waiting List	00-01	01-02	02-03	03-04	04-05	% change from 03-04 to 04-05
Waiting List at Year End	442	493	404	337	231	-31%
Average Age of Waiting List (in Months)	5	10.2	9.4	5.87	5.07	-14%

Table 2: Waiting List at Year End

As of March 31, 2005, the waiting list had declined to 231 cases, the lowest level since before the 2000-01 changes.

Case Closure Rate

Case closures are an important measure of OWA's capacity to deal with its workload. Overall, the more cases closed, the more workers OWA can help, the faster their cases can be resolved and the shorter the waiting list becomes. There are other variables, especially the number of actual Worker Adviser staff available in any given year, the number of new incoming cases, and the proportion of files closed by merit review, early intervention and full representation.

There are other key factors affecting case closure rates. First is a changing case mix over time. It appears that the case mix has become more complex over the past few years. This likely results from the impact of case selection by issue and merit, as well as the fact that improvements in community self-reliance have focused the OWA's caseload increasingly on the more complex cases in the system. In addition, as with the rest of the workplace insurance system, OWA has experienced a significant increase in the number of complex occupational disease cases. This also comes in the context of what appears to be an overall trend toward complexity in the appeal system, evidenced by a 16% increase in 2004-05 of the proportion of Board appeals cases requiring an in-person hearing.

Second, in 2004-05, delays experienced by the Tribunal in scheduling cases for hearing significantly affected OWA's ability to proceed promptly with appeal cases and to turn over cases efficiently.

OWA's case closure measure, reported in Figure 3, includes files closed from full representation, waiting full representation, merit review and early intervention. It thus tracks both early resolution and full representation, as well as cases diverted from the appeals system through merit review. In 2004-05, OWA closed 3,135 representation cases. This represented a decline from 2003-04 levels of around 9%.

Overall, OWA believes that most of the efficiency gains resulting from the 2000-01 service delivery model changes have now been realized and that it will be challenging to increase case closure rates from current levels. The most significant opportunities for improvement will likely come from strategic progress within the workplace insurance system on improving dispute resolution, particularly at the initial operating level stage.

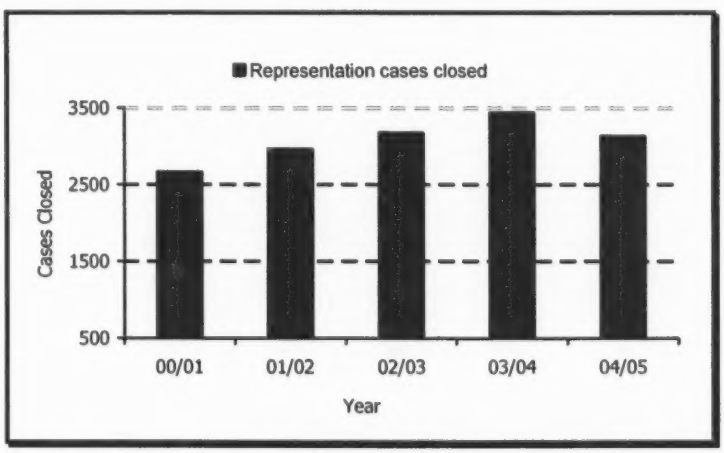

Figure 3: OWA Representation

OWA Representation	00-01	01-02	02-03	03-04	04-05	% Change 03-04 to 04-05
Representation cases closed	2,665	2,965	3,179	3,443	3,135	-9%

Table 3: OWA Representation

The Appeals System And OWA's Role Within It

A. OWA's overall role in the Appeals System

OWA represents more injured workers than any other organization. This means that OWA has a vital stake in helping improve dispute resolution and avoiding future backlogs and system overload.

B. Early & Alternative Dispute Resolution Initiatives

The volume of cases in the appeals system and their frequently complex nature have focused strategies for all of the system partners on trying to divert cases from proceeding to full formal hearings. This has meant that the use of early or alternative dispute resolution (EDR and ADR) has become an increasingly important aspect of the work of OWA staff in recent years.

EDR/ADR includes efforts at early dispute resolution with the employer and Board as well as mediation and other non-hearing dispute resolution techniques at the appeals levels. ADR techniques such as agreed statements of facts, or focusing the issue agenda, can also streamline the appeals process even when part of the dispute resolution must still be done by a hearing.

The OWA's ability to succeed with EDR/ADR depends to a significant extent on cooperation with employers and employer representatives, as well as with the Office of the Employer Adviser (OEA), the Board and the Tribunal. In a broader sense, it requires a change in the dispute resolution culture by all stakeholders and organizations within the system.

Decisions by level & use of Early or Alternative Dispute Resolution	02-03			03-04			04-05		
	Total Decisions	# by EDR/ ADR	% by EDR/ ADR	Total Decisions	# by EDR/ ADR	% by EDR/ ADR	Total Decisions	# by EDR/ ADR	% by EDR/ ADR
WSIB – Operating Level	1,708	1,708	100%	1,839	1,839	100%	1,568	1,568	100%
WSIB – Appeal Level	684	346	51%	776	366	47%	901	444	49%
WSIAT	381	114	30%	363	105	29%	396	129	33%
TOTAL Decisions from all Levels	2,773	2,168	78%	2,978	2,310	78%	2,865	2,141	75%

Table 4: Decisions by level

In terms of overall numbers, in 2004-05, OWA staff obtained a total of 2865 decisions from the initial adjudication and appeals levels of the Board and from the Tribunal (see Table 4). This was a reduction of 3.8% from 2003-04 levels. The 2004-05 the decline resulted from basically the same factors as cited above regarding case closures.

OWA management believes that overall decision production is now close to maximum levels. Further improvements can occur with the type of system and stakeholder dispute resolution

partnership improvements proposed above. OWA is actively working with its system partners to make these changes.

The picture is similar for the overall proportion of OWA decisions resulting from EDR and ADR, which declined slightly from a level of 78% in 2003-04 to 75% in 2004-05.

In 2004-05, the OWA continued its participation in an ongoing ADR project involving the large non-union Hamilton employer Dofasco and the Board. Under this arrangement, the employer refers its injured workers directly to the OWA at an early stage for advice and, where necessary, representation.

C. Central Client Services Unit

Central Client Services Unit Responsibilities:

OWA's Central Client Services Unit (CCSU) has responsibility for central services relating to

- representation and advice to OWA staff in legally complex and/or precedent setting cases
- system improvement initiatives
- education materials and sessions for OWA staff and other representatives
- education materials for the public
- advice and assistance to the OWA

The General Counsel/Manager CCSU and three Legislative Interpretation Specialists (LIS) carry out CCSU's role.

Casework

In the areas of advice and representation, CCSU duties include: assisting Worker Advisers with legal issues in their casework, direct handling of or co-counselling with Worker Advisers in legally complex and precedent setting cases up to and including, on occasion, judicial review. The bulk of CCSU casework assistance is for cases at the Tribunal level. However, some CCSU casework is also done at the Board level, for example, where the case involves a significant issue and further appeals may be avoided by intervening at the Board.

The following is a review of significant casework performed by CCSU in 2004-05:

Occupational Disease: CCSU continued to provide legal and strategic support in a number of individual cancer cases. This included obtaining expert medical reports, writing extensive submissions on the causation portion of a leading stomach cancer case, and providing legal and strategic advice through numerous case consultations. CCSU also continued work on the issue of apportionment in COPD cases in conjunction with a community legal clinic and union working on this issue.

Same-sex benefits case: In this case, *Charter of Rights* arguments will be brought forward in Tribunal reconsideration proceedings, to support the Vice-Chair's decision in *Decision No. 897/02* to award survivor benefits to the same-sex spouse of a deceased worker. CCSU has direct carriage of this case. During the first phase of these proceedings, CCSU was successful in arguing that the Tribunal has jurisdiction to consider *Charter* issues.
The arguments relating to whether it is discriminatory under s.15 of the *Charter* to deny survivor benefits to the worker's same sex partner will be heard in early Fall of 2005.

Other Survivor Cases: In addition to the same sex survivor case, described above, CCSU has assisted Worker Advisers on a number of challenging cases where OWA is representing or advising survivors of workers who died as a result of a work-related injury or illness. These included:

- Successfully arguing for survivor benefits for the single mother of a young man crushed by a construction vehicle. CCSU also co-counselled at her son's inquest.

- Advising the close family members of two different workers who died of mesothelioma about the limits of the workers' compensation system regarding compensation for "secondary victims".

- Advising how and when there can be entitlement to survivor benefits for more than one spouse.

Time Limits: CCSU continued to provide significant support to individual staff and to the agency on issues related to statutory time limits. This included extensive review of a number of cases, tracking OWA cases involving missed time limits, analysing and reporting on OWA experience, reviewing the state of the law and policy in this area and communicating with staff and community partners regarding developments in this area. CCSU also contributed to significant improvements in OWA's time limit related procedures during 2004-05.

System Improvement

CCSU does a great deal of work aimed at improving the workplace insurance system for injured workers and their survivors. This includes policy and law reform efforts through working with system and community partners and making formal submissions to the Board and elsewhere. It also includes representing the general interests of injured workers through intervention in Tribunal and, on occasion, other proceedings. These are detailed under the 'Community Partnerships and Educational Services' and 'System Partnership' sections later in this annual report.

System Improvement Activities of Note for CCSU

- Regular participation in a provincial level meeting of worker-side representatives and several Toronto based groups.
- Regular attendance at the Board's **Worker Stakeholder** meetings and related worker caucus meetings
- Worker-side coordinator for the Board's **Policy Round Table** meetings
- Worker-side member of the Board's **Operations and Medical Issues Group**
- Coordinator of high-level meetings between worker representatives and the Chair of the Tribunal
- OWA lead contact with the Tribunal

Education services for OWA staff and other representatives

CCSU provides education services to the OWA and to other representatives primarily through the creation and dissemination of generic materials designed to help workers' compensation representatives to maintain their professional expertise and stay up to date on developments in workers' compensation and related law and policy. CCSU also develops and presents educational material on an as needed basis for internal and external education events.

Education materials

Generic Material: As much as possible, CCSU develops generic materials (e.g. legal submissions and memos, information bulletins etc.) on systemic workers' compensation issues, which stem from CCSU's representation work. They are meant to assist representatives inside and outside the OWA in their casework. CCSU produced over one dozen generic documents (e.g. information and case advice bulletins, notices and legal memos) including updates on and analysis of new Board policies, important Tribunal and court cases and general information and analysis on developments in the law and policy relevant to workers' compensation practice.

Public Folders Project: In 2004-05 CCSU completed a significant overhaul of the Research subfolder in the OWA Public Folder. All documents in the Research folder are now indexed in a searchable Access database, which is regularly updated as new documents are added to the folder. This is an important and valuable resource for OWA staff.

Education material for the public

CCSU writes, edits and revises education material for the public such as the OWA Fact Sheets and other information posted on the OWA website and produced in hard copy (e.g. frequently asked questions (FAQs), information bulletins, website's 'What's New' section and notices about events).

(3) COMMUNITY PARTNERSHIPS AND EDUCATIONAL SERVICES

In building community partnerships and delivering its educational services, the OWA's primary goal is to support community self-reliance in workplace insurance and return to work. The main way in which OWA pursues this goal is to develop partnerships with other groups in the community that help injured workers. This includes MPPs and their constituency assistants, ethnic and immigrant organizations, injured worker groups, community legal clinics, health care providers and unions.

OWA has focused its efforts on those community organizations which have the most contact with the vulnerable non-unionized injured workers needing OWA services. Staff members have lead roles for the development and maintenance of specific key partnerships – including the health care sector, municipalities, the francophone community and immigrant and ethnic communities.

Table 6 is a summary of OWA's group educational sessions and individual case consultations to community partners. These activities help to support partners in their own advisory and representation work, with the additional impact of reducing the demand for OWA services.

The OWA also promotes community self-reliance through its educational materials, as described above under Central Client Services Education Material (part 2C). These materials are reviewed and updated as policy and practice changes develop at the Board in response to the new legislation. The updated information sheets are also available through the OWA website.

To enhance the accessibility of these materials to the external community, the OWA distributes them electronically. They can then be customized to fit the specific training needs of the user. The contents of these materials are also incorporated into standard educational and information packages, which OWA staff then delivers at educational/informational sessions in the community.

Educational Services	00-01	01-02	02-03	03-04	04-05	% Change 03-04 to 04-05
Clinic/Info/Educational Sessions	49	116	105	131	196	50%
Attendees	5,505	5,688	2,890	6,403	6,828	7%
Case Consultations	105	35	89	79	74	-6%

Table 5: Educational Services

During 2004-05, the OWA held 196 educational sessions, including information sessions and self-reliance clinics for injured workers, in communities throughout the province. The majority of the information sessions focused on the workplace insurance system especially as it relates to injured workers.

Providing OWA Services To Areas With No Permanent OWA Office

Many of OWA's clients have significant disabilities, which makes it difficult for some of them to travel long distances to meet OWA staff when telephone contact is insufficient. Many clients also face severe financial hardship, which imposes additional limits on their ability to travel. In order to make its services as accessible as possible, the OWA holds regular injured worker clinics in communities in which there is no OWA office. This allows disabled workers to meet individually with OWA staff close to their home communities, rather than having to travel to more distant locations. In addition to serving individual clients, OWA builds partnerships and referral relationships with MPPs and key organizations in those local communities. In 2004-05, OWA staff visited Bancroft, Barry's Bay, Belleville, Brockville, Hearst, Kapuskasing, Kingston, Napanee, New Liskeard, North Bay, Pembroke, Perth, Peterborough, Prescott and occupational disease clinics in Sarnia.

Highlights of OWA Educational Sessions And Community Partnerships

Ontario Bar Association Continuing Legal Education event, *Advanced Workers' compensation Advocacy*, May 10, 2004: The OWA General Counsel played a key role in a major partnered educational program with CCSU presenting a paper: "What it Means to Apply Board Policy and the Policy Referral Process Under Section 126 of the WSIA".

CAW 2004 Workers' Compensation Conference: The Director and General Counsel participated in the worker community planning committee, which focused on developing the advanced level programming for the conference in October 2004. CCSU presented at the conference on case management, time limits and the Supreme Court of Canada Decision on chronic pain (Nova Scotia (Workers' Compensation Board) v. Martin, 2003 SCC 54).

Ontario Bar Association Continuing Legal Education event, *Employee Return to Work: Legal and Practical Considerations*, December 2, 2004: OWA General Counsel presented on the issues in a leading WSIAT decision, *Decision No. 2474/00*. This is the leading case on return to work,

which dealt with the question of whether the Board's policy of notifying workers of a failure to co-operation before reducing or suspending their benefits is consistent with the Act. The OWA Director presented on practice issues in return to work and labour market re-entry.

In March 2005, OWA delivered workplace insurance training to the first group of **Threads of Life** ***Volunteer Family Guides.***

Preparation for OBA's 2005-06 program on *Advanced Workers' Compensation: Best Practices in Return to Work*: The Director led and CCSU participated on the planning committee for this very important partnered event, played a major role in the fact scenario subcommittee, and agreed to facilitate one of the workshops and wrote a paper on early and safe return to work. The event is scheduled to take place early in 2005-06.

Key community partnerships

OWA's key community partnerships in 2004-05 included the following:

- Throughout the year, OWA actively participated in multi-stakeholder initiatives for young worker health and safety, including a community based initiative ("Threads of Life"), which emerged from a national memorial art project dedicated to young workers killed and injured on the job (called the "Lifequilt"). The partnership with Threads of Life contributed greatly to the development of the Fatalities and Immediate Response ("FAIR") project, discussed below under system partnerships.
- The OWA's Director served as a member of the Safe Communities Foundation Advisory Committee and OWA staff supported local safe community initiatives across the province.
- OWA offices continued to provide informational and referral material to MPPs' constituency offices. OWA's local offices have developed and are sustaining good working relationships and referral processes with constituency offices as a result of these initiatives.

OTHER KEY ACTIVITIES IN 2004-05

(1) STRENGTHENING SYSTEM PARTNERSHIPS

OWA places a very high priority on its partnerships within the workplace insurance system. The key organizations involved are the Board, Tribunal and OEA. Significant progress to strengthen these partnerships continued in 2004-05. System partnership activities occurred both on a formal organization to organization basis and through initiatives around specific key issues.

System Improvement Sessions	00-01	01-02	02-03	03-04	04-05	% Change 03-04 to 04-05
Number of Sessions	71	99	196	96	167	74%
Attendees	4,544	1,188	2,278	1,056	2,604	147%

Table 6: System Improvement Sessions

Formal Partnership Activities

OWA played an important role in formal meetings between the worker community and the interim Chair of the Board and her senior management team (these are called the "**Worker Stakeholder Meetings**"). In 2004-05, a key result was the development of seven adjudication and medical best practices, which will help improve services to injured workers. These best practices will be implemented in 2005-06.

At the operational level, OWA participated during 2004-05 in **System Partnership Working Group** meetings involving the Board and OEA, aimed at improving frontline cooperation among the three agencies. In 2004-05, the activities of the working group helped to improve system operations in dealing with vulnerable workers at risk of causing harm to themselves or others.

OWA also participated actively on the **Tribunal's Advisory Group**, which includes key representatives from the worker and employer communities.

The following is a list of the most significant system improvement work performed by CCSU providing important policy input to the System in 2004-05:

WSIB Occupational Disease Consultation: In May 2004 the draft Occupational Disease Advisory Panel (ODAP) Report was released. CCSU coordinated the OWA response to this important consultation, prepared the main OWA policy brief and presented at the Toronto session. CCSU also worked with OWA Worker Advisers and managers across the province to coordinate appearances by OWA staff in all seven cities where hearings were held.

Ministry of Labour Consultation on Ending Mandatory Retirement: CCSU consulted with worker community partners and wrote the OWA policy brief to the Ministry of Labour. The OWA brief highlighted the issues for injured workers, particularly the detrimental effect of the age cut off for wage loss benefits in current and pre-1997 workers' compensation legislation.

Regulation of Paralegals: CCSU wrote submissions to the Law Society arguing that the regulations should focus on fee-for-service paralegals and should not regulate OWA staff or other not-for-profit representatives who provide free service to injured workers.

Return to Work – Intervention at WSIAT: The OWA intervened in a case involving a s.126 referral of two Board policies. CCSU made extensive submissions arguing in support of the notice policies and for an interpretation of the return to work and loss of earnings provisions that would include as a cooperation duty, offering and accepting suitable work by employers and workers, respectively. While the panel in the final decision, Decision No.2472/00, did find that the notice policies were consistent with the Act, it did not accept that offering or accepting suitable work were part of the duty to cooperate in early and safe return to work.

Intervention at the Human Rights Tribunal: CCSU brought an application for leave to intervene before the Human Rights Tribunal of Ontario in a case involving the question of whether a non-economic loss (NEL) award under the workers' compensation system should be considered as an asset for the purposes of the Ontario Disability Support Program (ODSP). Our leave application was dismissed. However, the Ontario Human Rights Commission (the Commission) is pursuing judicial review of this decision. The judicial review is set for June 14, 2005 and will involve argument from the Commission and from the OWA.

Partnerships Around Key Issues

The OWA played an active role in system partnerships around several key issues.

Return to work – OWA played an important role in the national Roundtable on Return to Work/Return to Function of persons with disabilities. The Roundtable, sponsored by Human Resources and Social Development Canada (HRSDC), brought together stakeholders from the private and public sector to explore potential breakthroughs in improving the rate of employment of persons with disabilities. The OWA Director participated in the advisory committee to the Roundtable and was very actively involved in planning for an ambitious pilot of improving return to work through multi-disciplinary interventions.

Services to survivors of workers killed on the job – During 2003-04, OWA participated in the development of an important system partnership around improvements to services to survivors of workers killed on the job. The project, called "Fatalities and Immediate Response" ("FAIR"), is a joint effort of the Board, Ministry, Threads of Life and OWA. Its goal is to provide timely, seamless and comprehensive assistance to the survivors following a traumatic workplace fatality.

FAIR was piloted initially in the Hamilton area, beginning early in 2004-05. The Hamilton area consists of Halton, Hamilton, Brant, Haldimand-Norfolk-Brant, and Oxford. Fortunately, the occupational fatality rate in that area fell during 2004-05, and relatively few cases had to be dealt with. During 2005-06, it is planned to extend the FAIR project to the Western Region of the Ministry of Labour.

Injured workers in crisis – OWA deals regularly with injured workers in crisis situations. The combination of disability, income and job loss sometimes leads workers to become a threat to themselves and others, including suicide and threats of violence. OWA participated actively in a multi-agency initiative to improve the system's handling of these crisis situations which resulted in an improved protocol for inter-agency cooperation in dealing with these situations. This protocol continued in place during 2004-05 and was helpful in resolving several difficult situations.

Issues facing severely disabled workers – OWA facilitated a major partnership to identify ways to improve the interface between the workplace insurance system and the **Canada Pension Plan – Disability program**. A working group was formed involving the Board, CPP-Disability and the OWA. During 2005-06, further progress on these issues is planned, including an OWA pilot on helping injured workers navigate their way through these two inter-related systems.

(2) OWA TRANSFER PAYMENT PROGRAM

The OWA oversees the funding and accountability for the transfer payment program to the Provincial Building and Construction Trades Council of Ontario (PBCTCO).

OWA reviews and approves the PBCTCO Annual Business Plan and manages the transfer payment program through the administration of an annual Service Level Agreement, which includes performance measures, training outcomes and financial reporting requirements on a quarterly basis. OWA assesses the training outcomes against the actual year-end performance measures and financial reports. Year-end audited statements are required prior to approval of payment for the following year.

The Minister of Labour, as part of OWA's Business Plan submission approves the overall Transfer Payment Program as well as specific funding distribution for PBCTCO.

The purpose of the PBCTCO program is to develop and deliver workplace insurance training that is specific to the needs and concerns of the construction sector in training its members in workplace insurance and early and safe return to work. The key objective of the program is to strengthen workplace insurance self-reliance among the construction unions.

In 2004-05 the PBCTCO funding program introduced a new initiative, the *Return to Work Joint Training Seminars* to Local Unions, Employers Association and individual Union members.

The PBCTCO funding program also provides extensive mentoring and support to trained representatives, which, combined with the formal training, results in significant increase in the number of cases handled by trained representatives. Total claims handled by PBCTCO trained representatives in 2004-05 were 1,418.

(3) OWA STAFF LEARNING INITIATIVES

In a complex and ever-changing field of workers' compensation, it is vital for OWA staff to develop and maintain their expertise in assisting injured workers. To achieve this goal, staff continuing learning occurs on both a self-directed and formal basis. As part of sustaining OWA's Strategic Learning Plan, staff were provided with significant learning opportunities, with operational and fiscal parameters.

Self-directed learning: Regional staff held regular case consultation sessions and drew upon a number of sources of expertise. Worker Advisers, Managers and Central Client Services Unit (CCSU) staff have desktop access via the Internet to medical research and scientific literature through Harrison's on-line, Quicklaw service and to Tribunal decisions.

Substantive Learning:

Professional Responsibility – CCSU developed a comprehensive full day interactive training program on professional responsibility issues related to being an advocate for vulnerable people and a member of the Ontario public service.

Written Advocacy - CCSU developed and delivered a one & half day course focused on the fundamentals of writing and on applying those skills in the context of OWA advisory and representation work.

In September 2004, a two-day training orientation session was delivered to assist Program Assistants implement the changes in service delivery.

In addition, updating of substantive knowledge and skills-improvement training continued to be achieved through partnering with system and community partners. Most new OWA Program Assistants and Intake Counsellors attended the appropriate levels of the Ontario Federation of Labour's (OFL) Training Project (re-named as the Occupational Disability Response Team project). In addition, a number of other staff attended the OFL's more advanced courses, including the Medical Orientation, Appeals and Return to Work Programs. OWA staff attended the Workers' Compensation – Platform for Change Conference, April 30 & May 1, 2004, as well as the CCOHS Occupational Disease Forum in March 2005.

(4) TECHNOLOGY AND INFORMATION MANAGEMENT IN SUPPORT OF CLIENT SERVICES

The OWA made other significant improvements in information technology and information management during the 2004-05 reporting period:

- Management Board Corporate Security trained all OWA staff on OPS Information Management procedures, building on the OWA's threat risk assessments conducted in 2003-04 as part of OWA's Information Management Plan to protect against information loss, theft, destruction, modification or corruption.
- Continued with the development work on the new Case Management System (CMS) that will be Web based and have a Windows interface to accommodate future electronic service delivery to clients and will be ready for user testing in June 2005.
- OWA successfully migrated the storage of electronic files from hard drives onto a network attached server. This initiative greatly reduced risk of disclosure of confidential client information. OWA has established procedures and guidelines regarding security measures and protection of confidential client information.
- The completely redesigned OWA web site was launched in August 2004 with 80 percent new content (www.owa.gov.on.ca).
- The Central Client Services staff continue to use the Westlaw Carswell online legal information service
- Advisers and Intake Counselors continue to have access to Harrison's Online, a highly reputable web based medical reference site, to support their case research.
- A Content Management project was initiated with the purchase of InMagic software. A web based research and resource database will be developed to support OWA case preparation, work flow and support Knowledge Management best practices.